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SUMMARY RECORD OF THE 1244th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 19 July 1993, at 10 a.m.

Chairman: Mr. ANDO

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GE.93-17422 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Egypt (CCPR/C/51/Add.7; HRI/CORE/1/Add.19)

1. At the invitation of the Chairman, Mr. Zahran, Mr. Shahin, Mr. Fahmy, Mr. Khalil, Mr. Hammad, Mr. Elmoafi and Mr. Sirry (Egypt) took places at the Committee table.

2. The CHAIRMAN welcomed the Egyptian delegation. He did not doubt that, in entrusting such an eminent delegation with the task of representing it, the Egyptian Government had shown its will to cooperate fully with the work of the Committee. Given that some time had elapsed since the submission of Egypt's previous report and its consideration by the Committee, he invited the Egyptian delegation to begin by providing some supplementary information on the situation in Egypt, before turning to the list of issues drawn up by the Committee and communicated to the Egyptian delegation.

3. Mr. ZAHRAN (Egypt) assured the Committee that his delegation was fully disposed to cooperate with it in the consideration of the second periodic report of Egypt. His country had ratified the Covenant in 1982, at a time of major economic and social change attributable to the transition to a market economy and the increased role assigned to private-sector activities in favour of the low- and middle-income segments of the population. In that regard, the Egyptian Government subscribed fully to the principles laid down at the conclusion of the World Conference on Human Rights held in Vienna, Austria, in June 1993, which had stated that the right to development was a fundamental and inalienable right and that, furthermore, neither poverty nor the lack of development could be invoked to justify failure to respect human rights.

4. In recent years, particularly since the assassination of President Sadat in 1981, a tragic event that had been followed by the murder of the former President of the People's Assembly and of other intellectuals, writers and artists, Egypt had had to contend with violence caused by the irresponsible acts of extremist groups which had tried to invoke the principles of Islam in order to achieve their own political ends, citing freedom of expression as a pretext. In the light of those threats to the survival and political life of the nation, the Government had had to take emergency measures, which it had done in accordance with the provisions of article 4 of the Covenant and with the principle set forth in the Vienna Declaration, whereby acts of terrorism constituted violations of human rights and fundamental freedoms. Like other countries faced with situations in which extremist groups used violence to threaten the democratic process and economic and social progress, Egypt had introduced security measures to protect the population as a whole and all foreign visitors, in full compliance with the rule of law, and to punish persons recognized as responsible for breaches of public order. Although emergency measures had had to be applied, the Government and people of Egypt continued to adhere fully to the principles of democracy, respect for human rights and freedom of thought, belief and expression.

5. The constitutionality of Egyptian laws was duly verified by the Supreme Constitutional Court, as was indicated in detail in paragraphs 19-35 of the second periodic report. In addition, since the submission of the previous report and the preparation of the core document, the Penal Code had been amended in application of Act No. 97 of 1992, with a view to regulating the measures to combat terrorism and protect human rights; Act No. 100 of 1992 on the democratic election of the executive committees of trade unions had been promulgated; an Act raising the minimum working age for children from 12 to 15 had also been adopted; and any foreign woman married to an Egyptian could now confer her own nationality on her children. Moreover, there was no contradiction between the provisions of the Covenant and those of the Islamic Shariah, the only distinction being that the Shariah was applicable in certain matters pertaining to personal status, in which connection the Egyptian courts based themselves on religious law.

6. Egypt had always duly respected its commitments under the Covenant and had also participated extensively in all the dialogues held with non-governmental organizations. In that connection, it was to be noted that a conference of Arab non-governmental organizations for the defence of human rights had been held in Cairo in April 1993, as part of the preparations for the World Conference on Human Rights held in Vienna.

7. The CHAIRMAN invited the Egyptian delegation to reply to the questions contained in section I of the list of issues to be taken up in connection with the consideration of the second periodic report of Egypt, the text of which read:

"I. Constitutional and legal framework within which the Covenant is implemented and state of emergency (arts. 2 (2), (3) and (4))

(a) Please clarify the status of the Covenant in Egypt, particularly whether individuals can invoke the provisions of the Covenant directly before the courts (see p. 38 of annex II). How can a conflict that may arise between the provisions of the Covenant and Shariah law be resolved?

(b) Have there been any proclamations of a state of emergency in Egypt since the consideration of the initial report? If so, what has been the duration of the state(s) of emergency and what rights have been derogated from during such periods?

(c) Please describe the constitutional or statutory basis for ensuring conformity with article 4 (2) of the Covenant in times of emergency.

(d) Please provide information on safeguards and effective remedies available to individuals during a state of emergency.

(e) Please provide details of the activities being undertaken in Egypt to promote awareness of the provisions of the Covenant.

(f) Please describe any factors and difficulties affecting the implementation of the Covenant. In particular, what impact do the cultures and traditions of Egypt have on the implementation of the rights contained in the Covenant?".

8. Mr. KHALIL (Egypt), referring to section I (a), said that Egypt had ratified the Covenant in 1982, but stressed that it had signed it as long ago as 1967 and that the competent authorities had drawn heavily on it when drafting the 1971 Constitution, which enshrined all the rights and freedoms set forth not only in the Covenant, but also in all the other relevant international human rights instruments to which Egypt was a party. After its ratification, the Covenant had been published in Arabic in the Official Gazette and had become an integral part of domestic law, thereby acquiring a status strictly equal to that of all the other legislation, application of which was guaranteed by the administrative and judicial authorities. In the event of a conflict between the provisions of the Covenant and legislative provisions, or between legislative provisions and those of the Constitution, the Supreme Constitutional Court was called upon to give a ruling and passed binding judgements. Thus, some legislation found to conflict with the Constitution had been abrogated. With regard to the compatibility between the provisions of the Covenant and those of the Islamic Shariah, it should be borne in mind that all the provisions of the Covenant were already incorporated in the national Constitution and that the only field in which the Shariah was applied was that of personal status and family status, which in Egypt was defined in accordance with religious law.

9. Turning to section I (b) of the list of issues, which asked whether there had been any proclamations of a state of emergency in Egypt since the consideration of the initial report and, if so, what had been the duration of the state(s) of emergency and what rights had been derogated from during such periods, he said that the state of emergency had been extended for a period of three years from 1991 and that that measure had been taken in accordance with the provisions of the Constitution, by virtue of an Act adopted by the legislative organ. It went without saying that that emergency regime was connected with the existence of circumstances that were indeed exceptional and that it would come to an end at the same time as those circumstances. The measures relating to the state of emergency were applied under the supervision of the competent State authorities. Details of the provisions of the Egyptian Emergency Act and principles of human rights were given in part 4 of the report (CCPR/C/51/Add.7, paras. 147-160).

10. He then told the Committee what safeguards and immunities were maintained when the state of emergency was in force (section I (c) of the list of issues). First, there was no suspension either of the Constitution or of parliamentary activity. All measures taken under the state of emergency must be submitted to the People's Assembly and approved by it and it was impossible for the Executive to proclaim a state of emergency unilaterally. Secondly, the provisions that the President of the Republic invoked in order to restrict freedoms by reason of exceptional circumstances must be based in law. It was impossible for him to exceed his powers, other than with the approval of the People's Assembly.

11. Thirdly, the Attorney-General - a key post in the Egyptian judicial system and one whose incumbents could not be removed - had the possibility of extending the period of pre-trial detention. With regard to the procedures for arrest and imprisonment, it was impossible to derogate from them; however, it was not the examining magistrate who took the decision. Fourthly, the Emergency Act had been amended by an Act of 1982, at about the time of the ratification of the Covenant, in order to bring its provisions into line with the requirements of article 4 of the Covenant. For example, it provided that a detained person must be informed immediately in writing of the reasons for his arrest and placing under police custody and that he had the possibility of contacting a lawyer.

12. With regard to the safeguards and effective remedies available to individuals during a state of emergency (section I (d) of the list of issues), the Emergency Act also provided for the right of a person detained and his near relations to lodge appeals. It was possible to avail oneself of that remedy every 30 days; the appeal was lodged before a special court, made up of three judges belonging to the highest levels of the judicial hierarchy, or before a court of appeal. Those courts handed down rulings in application of the provisions of the Penal Code.

13. As for the safeguards concerning the judgement, an additional safeguard was provided by the procedure for "ratification" of court decisions: judicial bodies composed of judges and specialist and competent jurists studied all the judgements and all the requests for appeal that had been submitted to them in "memoranda of ratification". Those bodies could consider appeals concerning detention orders and, under a decision of the Supreme Court, they referred directly to the Constitution. The procedure for the ratification of judgements must be regarded as a particularly important remedy.

14. The Emergency Act did not authorize any of the derogations prohibited under article 4 (2) of the Covenant. For example, it was forbidden, even during a state of emergency, to resort to acts of torture, which constituted a criminal offence, or even to acts of coercion. All violations were subject to proceedings. The Emergency Act could not impose any measure contrary to the provisions of articles 6, 7, 8, 11, 15, 16 and 18 of the Covenant.

15. In conclusion, he said that, during the period that had elapsed, the President of the Republic had ordered the detention only of persons regarded as dangerous and as constituting a threat to national security. He had not had recourse to the other powers conferred on him under the state of emergency.

16. Turning to section I (e) of the list of issues, which requested details of the activities undertaken in Egypt to promote awareness of the provisions of the Covenant, he said that great attention was accorded to the provisions of the Covenant and also to those of other international human rights instruments, particularly in the context of the instruction and training given to police personnel, law students and future lawyers and magistrates. Egypt also had national institutes of legal studies, which organized seminars for members of the legal profession, and university research was conducted into human rights questions. It had hosted several African, Arab and international symposia on various aspects of human rights.

17. Lastly, turning to section I (f), dealing with factors and difficulties affecting the implementation of the Covenant and, in particular, the impact of the cultures and traditions of Egypt on the exercise of the rights set forth in the Covenant, he began by referring to the legal difficulties resulting from the incorporation of the provisions of the Covenant into domestic law. Such problems, with which jurists were familiar, were generally brought before the Supreme Constitutional Court. Secondly, with regard to the influence of cultures and traditions, it should be borne in mind that the World Conference on Human Rights that had recently been held in Vienna had adopted a final document in which it recognized that all human rights were universal, but that the importance of national and regional specificities and the historical, cultural and religious diversity of countries should not be overlooked. It could thus be seen that the international community recognized the need to take account of cultural specificities.

18. Mr. SADI thanked Egypt for sending to the Committee such a large and high-level delegation to reply to the Committee's various questions and supplement a report that had itself been carefully prepared. He would like clarifications on the importance, or position, of the Covenant in Egyptian legislation. The Egyptian delegation had stated that the Covenant ranked equally to the Egyptian laws, but what would happen if there was a conflict between the Covenant and an Egyptian law? It had been said that in drafting the 1971 Constitution the Egyptian legislature had drawn extensively on the principles set forth in the Covenant and other international instruments. He wondered why that did not confer a certain precedence on the Covenant with respect to the other laws. On another matter, having noted that administrative courts had studied the provisions of the Covenant while hearing administrative cases, he inquired whether the Covenant had been invoked in cases other than administrative cases and, if not, why not. Given that Egypt had been one of the first States to ratify the Covenant, it might be thought that the Covenant would have greater influence. Finally, he would like more information on the rulings handed down by the Supreme Constitutional Court concerning the importance or rank of the Covenant.

19. Regarding the question of the state of emergency, the Committee understood that a State party might be led to proclaim a state of emergency owing to exceptional circumstances, but he would like additional information on the special courts that had been established under the state of emergency. There appeared to be two levels of jurisdiction: he would like to know more about the right to appeal before the ratification of judicial decision by a higher court.

20. Third, he would like the delegation to provide fuller information on the dissemination of the Covenant in the country. Did the Egyptian authorities encourage the publication of articles in the press or the broadcasting of televised or other types of programmes on the contents of the Covenant for the public at large, i.e. the public not found in the schools, the universities or the training centres?

21. The fourth point that concerned him related to article 3 of the Covenant, i.e. equality between men and women before the law. He had noted the efforts made to eliminate differences of treatment between husbands and wives, especially with regard to transmission of nationality to a child for

an Egyptian woman married to a foreigner. He would like to know whether the same efforts were being made to correct other differences established by law between husbands and wives.

22. Finally, he explained that the questions raised by the members reflected their concern fully to understand all the obstacles impeding the implementation of the Covenant in the State party. Regarding the declaration of the state of emergency, he hoped that the measures authorized by it were in keeping with the prescriptions of article 4 of the Covenant, in particular the obligation to notify the Secretary-General and the other States parties.

23. Mr. AGUILAR URBINA noted that the report of Egypt was complete with regard to legislation, but left much to be desired with regard to practice. In the first place, he expressed the same concerns as Mr. Sadi concerning the Covenant's position: he would like to know what would happen in the event of a conflict between an Egyptian law and the Covenant, for that was not clear from the information provided by the delegation. There appeared to be no constitutional provision conferring constitutional rank on the Covenant.

24. Second, the Covenant had been ratified in 1982, and he had the impression that no significant changes had been made in the Egyptian legislation preceding it. He was thinking in particular of the Act on the Construction and Renovation of Buildings for Non-Muslim Religions, which was an imperial decree dating from 1856 and the Ottoman Empire and had not been amended after 1982 to allow for greater religious freedom. There was also an entire series of laws that had apparently not been amended since the ratification of the Covenant. Should it be concluded that that legislation was in line with the Covenant?

25. Third, he would like further information on Act No. 97, which had a connection with the state of emergency, since it was aimed at combating terrorism and the Egyptian delegation had stated that its goal was to protect freedoms and the right to life. Further information on the provisions of the Act would help determine to what extent it had amended the Penal Code and the Code of Criminal Procedure and what its influence was on the implementation of the Covenant. Finally, he was surprised to note that a state of emergency had again been proclaimed for three years, which was in his view quite a long time for a state of emergency to continue. He would like to know more about the way in which emergency laws were applied in Egypt.

26. Mrs. EVATT welcomed the fact that Egypt had ratified the Covenant with no reservations. She stressed Egypt's lengthy tradition of tolerance and of a competent and independent judiciary. The Committee understood the current difficulties in the country, but it was precisely in difficult times that the strength of respect for the Covenant could best be judged.

27. She was among the members of the Committee for whom the position of the Covenant in Egyptian domestic legislation remained unclear. More exactly, she wondered what the position of the Covenant was in relation to laws subsequent to its ratification.

28. With regard to the proclamation of the state of emergency, she noted that the States parties' obligation to make notification under article 4,

paragraph 3, was aimed at indicating the extent of derogations so as to ensure that they were clearly defined and fully justified. It was therefore regrettable that Egypt had never fulfilled that obligation, a fortiori in view of the extent of the powers, in matters of arrest, for example, conferred by the state of emergency in Egypt. The extent of the derogations was also not described in the periodic report. It would therefore be useful to know whether there were particular offences defined by the emergency laws and which criteria were applied to decide that an individual should be arrested under the emergency procedure rather than the ordinary procedure. Was the crime of terrorism, for example, provided for as a specific offence falling within the purview of the emergency procedure? In addition, she would like to know how many persons were affected by the implementation of the emergency laws, given that there had been numerous reports of mass arrests. Finally, clarifications were needed on the competence granted to the military courts in trying civilians charged with attacks on the security of the State, on the text setting forth their competence and on the guarantees provided for individuals, especially the judicial remedies available for obtaining release in cases of illegal detention.

29. Mr. LALLAH thanked the Egyptian delegation, whose description of the current difficulties in the country and explanations on the functioning of the judiciary gave a better understanding of the situation. Nevertheless, the Committee could not fail to be seriously concerned each time it noted that measures adopted to deal with terrorism were themselves extreme. It was the Committee's duty to seek to ensure respect for the provisions of the Covenant, whatever the situation.

30. For that reason, he would have liked to see the report contain specific information on the practical consequences of the implementation of the state of emergency. The report said nothing about the rights derogated from and the extent of those derogations. The Committee might wish to request a special report on the subject from the State party. Section III.D of the core document (HRI/CORE/1/Add.19) did give information on the ordinary courts, but it said nothing about the emergency courts and their consequences for the exercise of human rights. He would like detailed information on the establishment of the emergency courts, especially in view of the statement in paragraph 73 (a) of the core document that "The competence of the courts to adjudicate in all disputes and offences, unless otherwise stipulated by special enactment, is defined by law". He would like to know the powers, composition and methods of operation of the military courts, the Revolutionary Court, the court of morals and the Higher State Security Court.

31. Mrs. HIGGINS said that she had listened carefully to the Egyptian delegation's useful statement. She would like to take the opportunity to say how valuable a contribution to the work of the Committee was made by Mr. El Shafei, who was deeply devoted to the cause of human rights.

32. The report contained some interesting information and was supplemented by a particularly useful annex, but the fact that it had not been drafted in the order of the articles of the Covenant, contrary to the Committee's guidelines, made it difficult to read.

33. Like the other members of the Committee, she was concerned at the consequences of the proclamation of the state of emergency in Egypt. It was true that the country was currently experiencing serious difficulties, and it had a reputation for not allying itself with terrorism. Nevertheless, the failure to notify the proclamation of a state of emergency was in fact a violation of the Covenant. It was not sufficient to use the consideration of an ordinary report as an occasion to list the rights that had been derogated from. The Committee should be made aware of the actual situation at the time it occurred, in order to be able to determine whether to ask the State party to come and provide it with explanations, as it was empowered to do. That was why many of the questions asked of Egypt had related to the state of emergency. Article 3 of the Emergency Act set forth the measures that it was possible to take, but the Committee did not know which ones had actually been implemented. That article did not provide for the establishment of emergency courts, but emergency courts had in fact been established, and apparently under the Emergency Act. She would like confirmation. Similarly, she would like to know whether the power granted by the Emergency Act to arrest suspects who threatened State security justified the mass arrests which had come to the Committee's attention. In other words, should that provision be interpreted as permitting the arrest of hundreds of individuals at once? If so, the situation was all the more disturbing as the reasons adduced for those mass arrests appeared to be support for Islamic militancy. Furthermore, she would like to know whether it was also the Emergency Act that authorized administrative detention, of which improper use appeared to be made.

34. Mr. FODOR paid a tribute to Mr. El Shafei, who was an eminent Egyptian jurist, for his outstanding contribution to the Committee's activities.

35. He had been disappointed not to hear an explanation from the Egyptian delegation as to why the report had been submitted five years late. In addition, the report had not been drafted according to the Committee's guidelines, which called for an article-by-article description in the order of the Covenant. The report was a lengthy presentation of legislative texts with an annex containing a table stating which provisions of domestic legislation corresponded to the articles of the Covenant or were compatible with the Covenant, which did not help the reader to have an idea of the actual situation. In addition, although paragraph 36 of the periodic report (CCPR/C/51/Add.7) stated that the principles of the Islamic Shariah should be one of the main sources of Egyptian legislation, there was no further reference to those principles in the report.

36. Like other members of the Committee, he would like to have a better understanding of the Covenant's position in Egyptian law, for the Egyptian Constitution seemed to make a distinction between two categories of treaties, ones that were approved by the People's Assembly and others, including the Covenant, that were ratified by the President of the Republic alone. That curious situation, where a single individual both concluded and ratified a treaty, called for explanations. It would also be useful to know the order of rank of the legislative texts, since the Covenant had been promulgated by a presidential decree and not by a law. Similarly, clarifications were needed concerning the role to be played by the Constitutional Court in cases of conflict between a treaty and a law, since, if his understanding was correct, the treaty did not automatically take precedence over the law.

37. It had to be acknowledged that a nearly continuous state of emergency for 25 years was contrary to article 4 of the Covenant, which stipulated that such a measure could be proclaimed only "to the extent strictly required by the exigencies of the situation"; the justifications of the proclamation of a state of emergency in paragraph 150 of the periodic report, which included "the occurrence of disturbances within the country" also did not come automatically within the framework of the "public emergency" which threatened "the life of the nation", in the words of the Covenant. The measures authorized for restricting rights during the state of emergency (para. 154) were too numerous and broad to be compatible with article 4. Finally, how was it possible to justify articles 19 and 20 of the Act, which provided that once the state of emergency was lifted, the State security courts, which were emergency courts, could remain seized of cases that had been referred to them during the state of emergency?

38. A democratic society had to have strict respect for the principle of separation of powers. In Egypt, however, the President of the Republic not only had the executive powers related to his function but also had legislative and judicial powers, since he could "order a stay of court proceedings, ... commute a sentence and ... cancel or suspend the enforcement of any ... penalty" (core document, para. 68 (g)).

39. The proliferation of emergency courts needed some explaining, for there was nothing in the report to indicate why such a large number of emergency courts would be justified in Egypt. In addition, the information on the members of the Department of Public Prosecutions, contained in paragraph 94 of the periodic report, was too brief and should be elaborated upon.

40. Miss CHANET welcomed the continuation of the dialogue between Egypt and the Committee. She paid a tribute to Mr. El Shafei, whose contribution to the Committee was invaluable.

41. She endorsed the questions of other members of the Committee in expressing particular concern about the application of the state of emergency, which, according to article 4 of the Covenant, should not become a permanent state of consistent derogation from rights. Failure to make the communication stipulated in article 4, paragraph 3, was in itself a violation of the Covenant. The Committee needed to be assured that the state of emergency in force in Egypt was not having the effect of replacing the ordinary laws with other laws and the ordinary courts with other courts. In particular, was the 1980 law called the "Suspicion Act", which permitted the arrest of any individual on suspicion alone, still in force, and was it concurrent with the Emergency Act? The existence of emergency courts always indicated distrust of the ordinary courts, and it might be wondered whether the proliferation of such courts in Egypt, a country which traditionally respected the principle of the independence of the judiciary, was not a way of divesting independent courts of a number of offences that related particularly to the State. She wondered whether it was true that the rulings of the State security courts were not open to appeal and whether their decisions were submitted for authorization by the Prime Minister before being carried out, and also whether it was true that civilians could be brought before military courts. She would also like to know whether the Revolutionary Court was still in operation and what exactly the court of morals was.

42. Mr. PRADO VALLEJO said that the second periodic report of Egypt (CCPR/C/51/Add.7) contained some very detailed information on Egyptian legislation, but said little or nothing about its implementation. The question of implementation was a crucial one, for quite often there was a gulf between theory and practice, which was why the Committee was particularly interested in the problems that might arise in implementing the legislation and therefore the provisions of the Covenant. No one was unaware that Egypt was experiencing a number of difficulties in that respect, and the Committee would appreciate fuller information.

43. In particular, he would like to know how the legislative provisions on the state of emergency were applied. The main concern those provisions raised was the fact that they made it possible to arrest individuals and detain them without charge, which was absolutely contrary to the provisions of the Covenant. Thousands of persons had thus been arrested in recent months and held without trial. Under the Emergency Act, persons belonging to Islamic groups had been arrested for engaging in political activities. Furthermore, the emergency legislation made it possible to contest judicial decisions ordering the release of political prisoners who had not yet been tried. According to some reports, detainees who had been ordered released by a court were frequently taken to distant police stations or detention centres and then transferred to another detention centre under a new arrest warrant. Such measures were at variance with the provisions of the Covenant.

44. Another basic question was the independence of the judiciary in Egypt. In that respect, he noted that the conference on the subject held in Montreal in 1983 had set minimum standards that should be met by States. However, he had the feeling that those standards were not being respected as they should be in Egypt.

45. The decisions of the higher State security courts were also disturbing. It appeared that those decisions were not final until they had been approved by the Prime Minister. If that was true, it was tantamount to direct interference by the Executive in the judicial sphere. In addition, it appeared that no appeal could be lodged against decisions of those higher State security courts, or indeed against a number of decisions taken under the provisions of the new Penal Code.

46. He was also concerned by the existence of military courts. He would like to know their composition and powers. According to some sources, those courts had dealt with cases that were in no way of a military nature. He would like further information on that question. On another matter, the Minister of the Interior could order pre-trial detention without charge or trial, which was incompatible with the Covenant. Under that provision, a very large number of persons belonging to Islamic groups had been detained without trial in recent months. Finally, regarding the activities of the military courts, he noted that they had handed down a series of death sentences in absentia, in other words without the accused being able to defend himself. All those were matters of the greatest concern and in fact had prompted most of the questions raised by the members of the Committee. He would like to hear the Egyptian delegation on all the points he had raised.

47. Mr. MAVROMMATIS said that he particularly regretted the situation Egypt had been experiencing for the past year because that country had age-old links with his own, Cyprus, and had made a very important contribution to the world in several areas such as decolonization, social, economic and political rights, etc., not only in the distant past but also since its accession to independence.

48. That having been said, there were reports of terrorist acts on Egyptian soil, targeted against innocent victims, including tourists. In the name of religion, the groups that had perpetrated those acts would like to bring Egypt back to obscure and distant times. It was true that to deal with such acts the Covenant authorized the States parties to take measures, and in the case of Egypt, drastic measures had certainly been necessary. But in some respects, the authorities appeared to have exceeded what was permissible under the Covenant. In addition, he was not very convinced of the deterrent effect of mass arrests or of the death sentences that had been carried out in the recent past in Egypt. It should also be borne in mind that the provisions of the Covenant tended towards the gradual abolition of the death penalty.

49. The second periodic report (CCPR/C/51/Add.7) was disappointing, despite the authorities' obvious efforts, as reflected in the new layout. The Committee would have liked fuller information on the actual situation in the country, and it was his hope that the Egyptian delegation's replies to the members' questions would make it possible to fill the gaps in the report. He also hoped that the dialogue with the Egyptian delegation would enable it to have a full understanding of the point of view of the Committee, which had lengthy experience in considering emergency situations.

50. The second periodic report (CCPR/C/51/Add.7) indicated that the Egyptian authorities considered themselves to be respecting the provisions of the Covenant. Certain points led him to doubt that, but if that was nevertheless the case, then the Government should consider acceding to the first Optional Protocol.

51. On another matter, he found it surprising that the head of State could refer cases to a military court, whose decisions, it had also been learned, were practically closed to appeal. In addition, those courts had allegedly tried civilians for political acts. He would appreciate clarifications.

52. Mr. HERNDL expressed particular concern about the Covenant's position in Egyptian legislation. He recalled that the Committee had already addressed that issue nine years before, when it had considered the initial report submitted by the Egyptian authorities (CCPR/C/26/Add.1/Rev.1). The Committee had asked the Egyptian delegation the same questions at the time, but it had received no reply, until the current meeting when the Egyptian delegation had supplied some explanations. In particular, it appeared that under article 151 of the Constitution the President of the Republic ratified international instruments, but that certain agreements, such as peace treaties, etc., had to be ratified by Parliament. The Egyptian delegation had also said that the Covenant ranked equally to all the Egyptian laws. In other words, it was a body of constitutional principles that bound the legislature. In that sense, therefore, the Covenant would have higher rank than domestic legislation. It had also been said that in cases of conflict between a national law

and a provision of the Covenant, the Egyptian law would be declared unconstitutional. In addition, under article 170 of the Constitution, the courts decided whether legislation was constitutional. In his understanding that meant that the courts could declare unconstitutional a law that was contrary to the provisions of the Covenant. Was that how that information should be interpreted? Finally, was the Supreme Constitutional Court competent in questions relating to international obligations contracted by Egypt?

53. Regarding the state of emergency itself, most of the points of concern to him had already been mentioned by other members of the Committee. He would therefore simply raise the question of the State security courts. Paragraph 68 of the core document (HRI/CORE/1/Add.19) stated that those emergency courts were not only competent to hear complaints against detention orders - as indicated by the heading of the section in which that paragraph was found - but could also try offences under the Emergency Act and other legislative provisions relating to the state of emergency. He would like to know more about the composition and functioning of those State security courts. How many judges sat on them? How were those judges appointed and how was their independence ensured?

54. On another matter, he was surprised by the provisions of Egyptian law on the separation of powers, under which the President of the Republic might or might not ratify decisions taken by the State security courts. The Executive was therefore, in a way, an appeals body for judicial decisions. Such a provision was quite out of line with the guarantees provided by the Covenant regarding the separation of powers, and he would like some clarifications on that matter.

55. Finally, the presentation of the second periodic report (CCPR/C/51/Add.7) was not fully in keeping with the Committee's guidelines. The Egyptian authorities had certainly made a laudable effort in presenting an annex containing a table comparing the articles of the Covenant and the provisions of the Egyptian Constitution and laws, but data on the implementation of those provisions was most inadequate. He would like further information on the actual situation and fuller explanations of the content of the national legislative provisions, which were often treated too briefly in the report (CCPR/C/51/Add.7).

56. Mr. WENNERGREN agreed with the preceding speakers who had criticized the lack of information in the report (CCPR/C/51/Add.7) on the actual human rights situation in Egypt. He pointed out that much of the Committee's information had come from non-governmental, in particular Egyptian and Arab, organizations. Speaking of the non-governmental organizations, it appeared that the Egyptian Government had denied some of them authorizations. Why had the Egyptian authorities done so? Had the organization mentioned in the last paragraph of the core document (HRI/CORE/1/Add.19), the Egyptian Human Rights Society, been authorized, and if so, why had the others not been?

57. He had read with interest a decision by the Supreme Court to the effect that the Universal Declaration of Human Rights was merely declaratory and not of a binding nature. The text of that decision implied that the Supreme Court considered treaties such as the Covenant also not to be of a binding nature.

Thus it appeared that laws could be promulgated that were not in keeping with the provisions of the Covenant. In his understanding, the Supreme Court considered that an international treaty ratified by Egypt had the force of a law, but did not bind either the legislature or the President of the Republic. In other words, if the legislature wished to adopt provisions in conflict with those of the Covenant and if the head of State agreed, those provisions would be constitutional. Was that interpretation of the Supreme Court's decision correct?

58. He was also disturbed by a provision contained in the Cairo Declaration on Human Rights in Islam. Under article 2 of the Declaration, safety from bodily harm was a guaranteed right. It was the duty of the State to safeguard that right, which could not be breached without a reason prescribed by the Shariah. In his understanding, therefore, the Shariah stood above any law, and even above the provisions of international treaties. Had Egypt acceded to the Cairo Declaration? If so, the Egyptian authorities should be basing their legislation on the Shariah, which would lead to significant disparities with the provisions of the Covenant. He would like clarifications on that matter.

59. With regard to the Emergency Act, a broad spectrum of restrictions of rights and special powers stipulated by that law had been mentioned. However, according to the Egyptian delegation, the only special power currently in force in Egypt was the possibility of placing persons in administrative detention on mere suspicion of engaging in certain political activities. Apparently, no other special power under the Emergency Act was exercised any longer. Could the Egyptian delegation confirm that?

60. The CHAIRMAN invited the members of the Committee to continue their consideration of the second periodic report of Egypt (CCPR/C/51/Add.7) at a forthcoming meeting.

The meeting rose at 1 p.m.